

REMARKS

I. Status of Claims

Claims 1 and 11-14 are pending. Claim 1 is the only independent claim. Claims 2-10 and 16-19 were previously canceled. Without waiving any argument, and to advance prosecution, claim 1 is amended to highlight the distinctions of the noise emission decreasing device of certain embodiments of the present invention from the modifying reference (i.e., Kanda). No new matter is added.

Claims 1 and 11-14 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Braun (USPGPUB 2004/0144367) (“Braun”) in view of Kanda (USP 4,924,966) (“Kanda”).

The Applicants respectfully request reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. Remarks Regarding Rejections

a. Certain embodiments of the present invention

Certain embodiments of the present invention, such as, for example, FIGS. 1-2¹ reproduced herein below, include an inner pipe 30 *that is fluidly isolated from an outer pipe 20*. The inner pipe includes an open end 31 through which an interior of the inner pipe *communicates with atmosphere*, and a noise emission decreasing device 40 for decreasing a noise emitted from the open end 31 of the inner pipe 30. Also, the noise decreasing device of certain embodiments of the present invention is made separately from the inner pipe and fixed to the ends of the inner pipe so as to decrease the vibration energy (noise) emitted from the inner pipe.

¹ FIGS. 1-2 were the only FIGs elected in a previous response to an election of species requirement.

FIG. 1

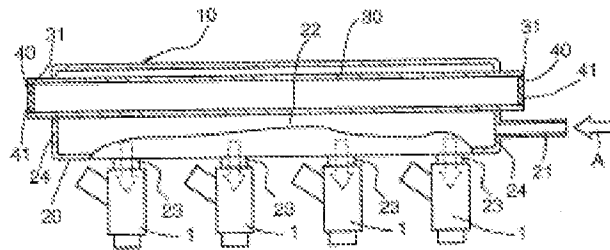
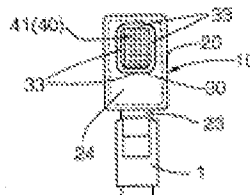


FIG. 2



In this example, the noise emission decreasing device 40 includes a mesh 41 which, when the air vibration generated inside the inner pipe 30 passes through the mesh 41, an energy of the vibration is absorbed and dispersed by the mesh 41. Accordingly, the noise emitted from the delivery pipe 10 is effectively decreased. As can be seen in FIG. 2, the noise emission decreasing device is provided at all portions of a cross section of an interior of the inner pipe. Furthermore, as with the inner pipe, *the noise decreasing device communicates with the atmosphere and is fluidly isolated from the outer pipe.* See also paragraph [0065] of the application as published.

b. Independent Claim 1 is Patentable Over Braun and Kanda

Claim 1 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Braun in view of Kanda.

It is respectfully submitted that claim 1 is patentable over the cited references at least because it recites, *inter alia*, "...wherein the noise emission decreasing device is provided at all portions of a cross section of an interior of the inner pipe, *is fluidly isolated from the outer pipe, and directly communicates with the atmosphere....*" (emphasis added)

With respect to Braun, FIG. 5 of which is reproduced herein below, this reference does not describe a mesh as a noise emission decreasing device. Consequently, it also does not teach and/or suggest a noise emission decreasing device that is provided at all portions of a cross section of an interior of the inner pipe, that is fluidly isolated from the outer pipe, and that directly communicates with the atmosphere. The Examiner admits as much on page 2 of the Office Action.

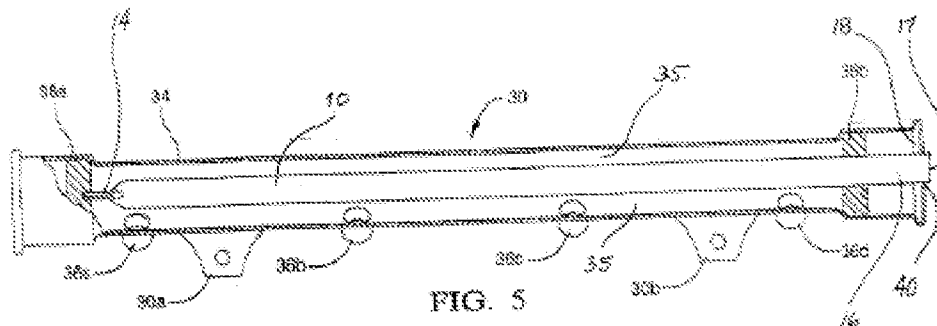


FIG. 5 of Braun

Accordingly, in order to purport to address the deficiencies of Braun, the Office Action cites Kanda (*See* page 3 of the Office Action).

As a preliminary matter, it is noted that certain embodiments of the present invention, as well as Braun, are directed to dampers for fuel injection systems. In contrast, Kanda is directed to mufflers for engine exhaust systems, which is a completely different system of the vehicle. We note that, in order to combine references in an obviousness rejection, each reference must be either within the applicant's field of endeavor or reasonably pertinent. M.P.E.P. § 2141.01(a)(I). It is respectfully submitted that Kanda is not reasonably pertinent. Consequently, an inventor attempting to solve the problem of preventing pressure pulsations within the fuel rail as a result of the operation of the fuel injectors would not logically look to mufflers of the exhaust system.

Nonetheless, even if Kanda were analogous, which is not so admitted, it still does not teach each and every limitation of the invention of claim 1. Claim 1 requires *that the noise emission decreasing device is fluidly isolated from the outer pipe and that it directly communicates with the atmosphere*. However, in each embodiment of Kanda (*See e.g.*, FIGs. 1, 2, 5, and 7-10 of Kanda, reproduced herein below, with annotations showing the by-pass flow

routes B), the inner pipe and the noise emission decreasing device are not fluidly isolated from the outer pipe. Instead, in Kanda, the inner pipe and noise emission decreasing device *are fluidly connected to the outer pipe and act as a by-pass flow route B*. See e.g., page 3, lines 32-36, of Kanda. Further, the inner pipe and noise emission decreasing device of Kanda do not directly communicate with the atmosphere. Rather, both of these components *communicate with the tailpipe 2*.

FIG. 1

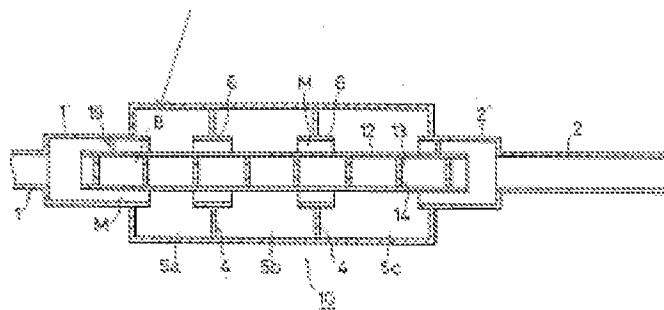


FIG. 2

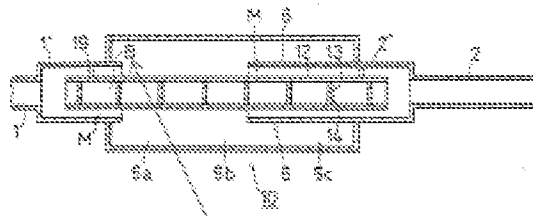
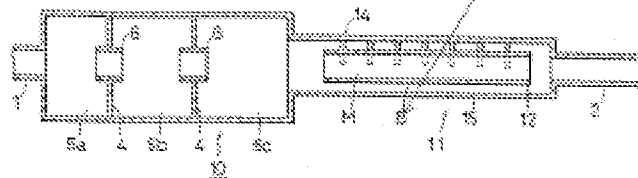
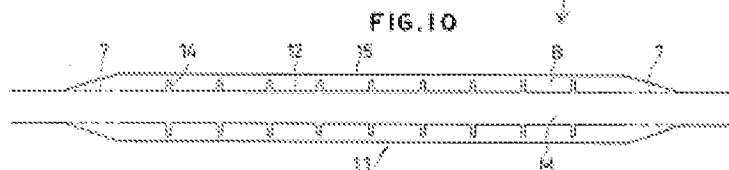
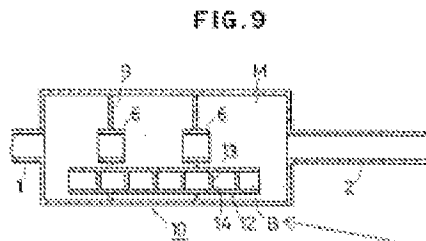
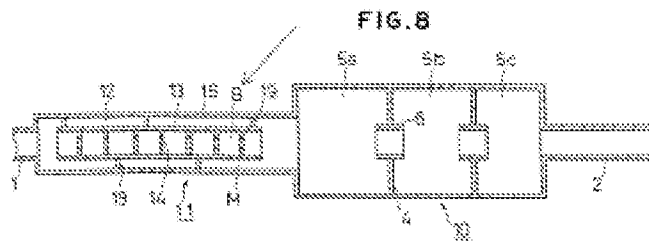
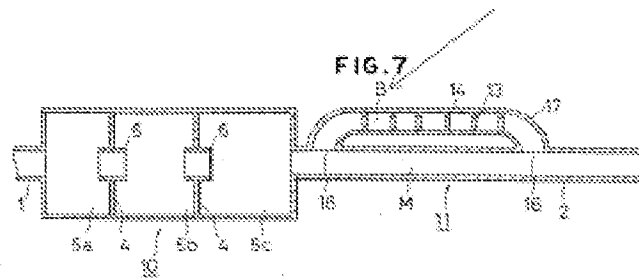


FIG. 5





Accordingly, lacking any teaching and/or suggestion of each and every limitation of the invention of claim 1, the Applicant respectfully submits that the proposed combination of Braun and Kanda fail to render the same obvious.

Further, it is respectfully submitted that none of the other cited references identify a reason why one having ordinary skill in the art would modify Braun and/or Kanda in the manner as claimed by the Applicant. As discussed in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007), it is necessary to identify the reason why a person of ordinary skill in the art would have

been prompted to modify the cited references in the manner as recited in the invention of claim

1. Obviousness cannot be sustained by mere conclusory statements.

Therefore, for at least these reasons, it is respectfully submitted that claim 1 and its dependent claims are patentable over the cited references.

III. Conclusion

In view of the foregoing discussion, the Applicants respectfully submits that the present application is in all aspects in allowable condition. Favorable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: August 17, 2010

By: /Daniel G. Shanley/
Daniel G. Shanley
Reg. No. 54,863

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201